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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Herve PERRON et al.	Group Art Unit: 1649
Application No.: 10/582,674	Examiner: D. KOLKER
Filed: June 12, 2006	Docket No.: 128125

For: ISOLATED CYTOTOXIC FACTOR ASSOCIATED WITH MULTIPLE SCLEROSIS AND METHOD OF DETECTING SAID CYTOTOXIC FACTOR

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the June 2, 2008 Restriction Requirement, Applicants provisionally elect Group 2, claims 2-10, with traverse.

PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

> Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

A lack of unity of invention may be apparent "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. *See* MPEP §1850(II), quoting *International Search*

and Preliminary Examination Guidelines ("ISPE") 10.03. Lack of *a priori* unity of invention only exists if there is no subject matter common to all claims. *Id.* If *a priori* unity of invention exists between the claims, or, in other words, if there is subject matter common to all the claims, a lack of unity of invention may only be established *a posteriori* by showing that the common subject matter does not define a contribution over the prior art. *Id.*

The Office Action does not establish that each and every element of the subject matter that is common to independent claims 1, 2, 11, 13 and 15 is known in the prior art. In particular, the Office Action does not establish that "heterocomplex GM2AP/GM2/MRP14" and "mutated GM2AP/GM2/MRP14" as recited by independent claims 1, 2, 11, 13 and 15 is known in the prior art. Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a restriction requirement based on a lack of unity of invention is improper.

Reconsideration and withdrawal of the restriction requirement are respectfully requested.

Respectfully submitted,

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Date: July 2, 2008

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